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## **State Supreme Court grants new trial in DUI case**

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The Washington Supreme Court issued a razor-thin opinion last week that will give a new trial to a Spokane man convicted of driving under the influence – and potentially hamstringing future prosecutions of cases like his.

Ryan R. Quaale is due to complete his work release sentence in February for a chase with a Washington State Patrol trooper through Mead in August 2011. But the state's highest court ruled last week that Quaale deserves another trial after the trooper who arrested him told a jury that Quaale was "absolutely" impaired when he was taken into custody. Quaale was arrested following a car chase through a residential neighborhood where he topped 56 miles per hour with his headlights off.

The case hinged on WSP Trooper Chris Stone's use of only the horizontal gaze nystagmus (HGN) test, where a driver is asked to track a pen or finger with his or her eyes, to determine Quaale was drunk. Five Supreme Court justices said that evidence alone was not enough for Stone to offer an expert opinion that Quaale was driving while intoxicated, but four of their colleagues and Spokane County prosecutors said that distinction sets a dangerous precedent.

"This newly created strict limit on the HGN test is particularly concerning because it will incentivize drunk drivers to evade other standard field sobriety tests, putting law enforcement officials in an untenable situation," Justice Susan Owens wrote in the opinion for the minority.

Quaale's first trial on charges of DUI and evading police ended in a hung jury on the drunken driving question. Stone gave his opinion "there was no doubt" that Quaale was driving drunk in the second trial, where the trooper also testified the odor of alcohol was so strong in his squad car that he had to roll down the windows.

Quaale was convicted of felony DUI by the jury because of a previous vehicular homicide conviction, according to court records. In June 1998, a drunken Quaale smashed into a car at Crestline Street and Nebraska Avenue, killing 2-year-old Brendan Burrows. Blood tests showed Quaale was three times over the legal limit, and he was sentenced to almost seven years in prison for the killing, according to news reports at the time.

No blood or breath test was conducted at the scene of the August 2011 chase. Stone told the jury he did not conduct other sobriety tests "because he did not want to risk Quaale running off again," according to court documents.

Quaale's attorney did not return a call requesting comment Monday. Voting in favor of giving Quaale a new trial were Justices Barbara Madsen, Charles Johnson, Charles Wiggins, Sheryl Gordon McCloud and Mary Yu. Justices Mary Fairhurst, Debra Stephens and Steven Gonzalez joined Owens in dissent.